

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT
STATE OF MISSOURI**

**ANASTASIA E. YOUNG, f/k/a
ANASTASIA E. GAINER,**

Plaintiff,

vs.

**UNITED STATES OF AMERICA,
DEPARTMENT OF VETERANS AFFAIRS,**

Defendants.

Case No:

VERIFIED COMPLAINT

NOW COMES Plaintiff, Anastasia E. Young, by and through her attorneys, LAW OFFICE OF GERHARD J. PETZALL, and for her Complaint against Defendants states as follows:

INTRODUCTION

The veteran had active military service from May 1990 to May 1994.

Plaintiff was honorably discharged for medical reasons in 1994.

PARTIES

1. Plaintiff Anastasia E. Young f/k/a Anastasia E. Gainer (hereinafter “Young”) is a Missouri resident currently living in Branson.

2. Defendants, Department of Veterans Affairs of the United States of America are collectively referred to herein as the (DVA).

VENUE

3. Venue in the Eastern District of Missouri is proper pursuant to 28 USC 1402(b).

FACTS

4. In April 2013, the Region Office (RO) sent correspondence to Young of a rating action that reduced her disability rating from 100 percent to 30 percent relative to Young's asthma.

5. Young immediately filed a Notice of Disagreement in April of 2013 with the proper office and never heard any response.

6. In July 2013 Young's benefits were reduced to 30% in accordance with the April correspondence.

7. In August 2013, Young again notified the VA that she disagreed with the April 2013 reduction in benefits and timely filed the appropriate documents.

8. In August 2013, Young filed for an Appeal of the reduction.

9. These issues came before the Board of Veterans' Appeals (Board) and were addressed in the analysis portion of the February 2015 statement of the case.

10. Young was returned to her 100% rating and it was determined the reduction was not proper and acted without regard for the law, 38 U.S.C.A. §§ 1155, 5103, 5103A, 5107 (West 2014); 38 C.F.R. §§ 3.105, 3.343, 3.344, 4.97, Diagnostic Code 6602 (2015). Ex. 1, attached.

11. During the time of the decreased rating, the Young's home of ten (10) years was placed into foreclosure, and the Sheriff changed the locks, which caused the Youngs to be deprived of Twenty Thousand Dollars (\$20,000.00) worth of personal property.

12. Young and her husband were forced to find housing on short notice with a foreclosure on their credit report, making this task more difficult.

13. Young sold off a “paid off” (\$15,500.00) vehicle at a reduced rate in order to come up with security deposits required for proper housing. (Sold for \$11,000.00).

14. The Young’s were forced to take on additional part time work in order to make up part of the financial loss from the reduction of rating.

15. At the time of the foreclosure, the home the Plaintiff owned and lived in was valued at approximately Two Hundred Fifty Thousand Dollars (\$250,000.00). The equity built up in the home was \$80,000.00.

16. The personal property the Young’s were able to retain needed to be stored as the housing was very small, so there were additional storage fees in the amount of Four Thousand Dollars (\$4,000.00) and growing.

17. During this time, Young was hospitalized repeatedly and as a result of the drop in her rating, the VA would no longer pay for the hospital bills, which resulted in thousands of dollars and is still growing. Young was hospitalized in intensive care three separate times and was in a coma for almost three days. Plaintiff’s medical bills amount to at least Thirty-Five Thousand and no/100 Dollars (\$35,000.00).

18. Prior to the reduction in her rating Young was also approved and authorized to receive dental care in February of 2013 by Dr. Trapp. Young’s dental work had been started but in July 2013 Dr. Trapp ceased all dental work and by December 2013 Dr. Trapp was no longer authorized to perform the dental work because of the rating reduction. Therefore Young was without teeth from February 2013 until the work could be continued after her rating was re-instated.

19. Young’s benefits were restored by a federal judge at the Board of Veterans Affairs on November 30, 2015, Seventeen (17) months after the reduction took place.

20. Young was awarded her back pay no later than December 23, 2015 in a lump sum, but that did not compensate for the lost equity in her home, the mortgage amount outstanding, the loss on the vehicle she sold, the many hospital bills, which have been turned over to collection, her low credit score, and the embarrassment in the community cause by the negligent and unlawful reduction of her disability rating.

21. The Department of Veteran's Affairs owed a duty to Plaintiff to apply the laws and regulations as prescribed and failure to do so constituted clear and unmistakable error.

22. This Court has jurisdiction to review the negligent action of the defendants pursuant to 28 USC 1346(b) and 28 USC 2675(a).

WHEREFORE, Plaintiff herein prays this honorable Court for the total sum of Three Million Five Hundred Thousand and no/100 Dollars (\$3,500,000.00) to compensate her for the losses she endured during the unlawful reduction in her disability rating caused by the negligent actions of the Department of Veteran's Affairs

Respectfully submitted,

LAW OFFICE OF GERHARD J. PETZALL, L.L.C.



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VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that she is Plaintiff herein and the statements set forth in this Verified Complaint are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes that same to be true.

By Anastasia Elaine Gainer Young
Anastasia Elaine Gainer Young

STATE OF MISSOURI)
) ss.
COUNTY OF)

On this 30th day of November, 2017, before me Janet M. Schoenbeck, a notary public in the County and State aforesaid, personally appeared **Anastasia Elaine Gainer Young**, known to me to be the person who executed the foregoing, and acknowledged to me that she executed the same as her free and voluntary act and deed for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal this 30th day of November, 2017.

Janet M. Schoenbeck
Notary Public

My commission expires:

